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ABSTRACT

This document provides an overview and minority viewpoints on Senate Bill 1020. S. 1020 would authorize the Department of Labor to make grants to nonprofit organizations to research, identify, and develop new and advanced workplace technologies and practices to promote the improvements of workers' skills, wages, working conditions, and job security. These organizations would then, in turn, disseminate such information to workers, workers' organizations, employers, state industrial extension programs, and manufacturing technology centers and provide technical assistance to encourage the use of such technologies and practices in the workplace. The report includes information on the background and need for the legislation, history of the legislation and votes in committee, explanation of the bill and committee views, cost estimates, regulatory impact, and additional views. In addition, some senators conclude that the proposed legislation is illegal because it violates provisions of the National Labor Regulations Act against labor-management cooperation. They propose an amendment called the TEAM (Teamwork for Employees and Management) Act as an alternative. (KC)

Calendar No. 717

103D CONGRESS *2d Session* | SENATE | REPORT 103–401

THE WORKERS TECHNOLOGY SKILLS DEVELOPMENT ACT

OCTOBER 5 (legislative day, SEPTEMBER 12), 1994.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S.1020]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1020) which would promote economic growth and job creation by facilitating worker involvement in the development and implementation of advanced workplace technologies and practices, and disseminate such information to workers and employers, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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I. PURPOSE

S. 1020 would authorize the Department of Labor to make grants to nonprofit organizations to research, identify, and develop new and advanced workplace technologies and practices to promote the

improvement of workers' skills, wages, working conditions, and job security. Those organizations will then, in turn, further disseminate such information to workers, workers' organizations, employers, State industrial extension programs and manufacturing technology centers and provide technical assistance to further encourage the use of such technologies and practices in the workplace.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Over the past several years, there has been greater acknowledgement of an interest in the need to support industrial modernization. Limited government resources directed to that goal have been primarily provided through the Technology Reinvestment Project (TRP) of the Department of Defense and the National Institute of Science and Technology (NIST) of the Department of Commerce. However, there has been no Federal Government program which specifically authorizes funds for the purpose of building the capacity of workers to become partners in the industrial modernization process. Worker involvement in modernization of the manufacturing workplace is necessary to ensure that skills enhancement of workers, their job security, empowerment and maintenance of high living standards for themselves and their families are appropriately addressed as part of the industrial modernization process along with increased productivity and competitiveness. S. 1020 is a modest step in that direction.

III. HISTORY OF THE LEGISLATION AND VOTES IN COMMITTEE

On May 25, 1993, "The Workers Technology Skills Development Act" was introduced as S. 1020 by Senator Wofford, on behalf of himself, Senator Kennedy and Senator Kerry and was referred to the Committee on Labor and Human Resources.

A hearing was held on S. 1020 before the Committee on Labor an Human Resources on July 1, 1993. At that hearing, Secretary of Labor Robert Reich testified on the need for a people-oriented technology which should enhance workers' skills and ensure that new technologies evolve and are adopted in the presence of a sustained commitment to job security, worker retraining, work reorganization, employee involvement and gainsharing.

In addition to Secretary Reich, the following individuals provided testimony:

Norman E. Garrity, Executive Vice President, Specialty Materials Group, Corning, Inc., Corning, NY.

William N. Bronson, President Local 53G, Aluminum, Brick and Glass Workers International Union, Charleroi, PA.

Charles Edmunson, Vice President, Web Industries, Westborough, MA.

Robert Zicaro, Machine Operator, Web Converting, Inc., Framingham, MA.

Paul Walters, Senior Vice President for Administration, Detroit Diesel Corp., Detroit, MI.

Jim Brown, Chairman, Local 163, United Automobile, Aerospace, and Agricultural Implement Workers of America, Detroit, MI.

Mark S. Lang, Executive Director, Northeast Tier Ben Franklin Technology Center, Bethlehem, PA.

George H. Sutherland, Director, National Institute of Standards and Technology, Great Lakes Manufacturing and Technology Center, Cleveland, OH.

Charles Richardson, Director, Technology and Work Program, University of Massachusetts, Lowell, MA.

Mary Harrington, Director, Corporate Labor Relations, Eastman Kodak Co., Rochester, NY, on behalf of the National Association of Manufacturers.

Clifford Erlich, Senior Vice President, Human Resources, Marriott Corp., Washington, DC, on behalf of Labor Policy Association.

The following submitted prepared statements:

Honorable Steve Gunderson, U.S. Representative, Third District, WI.

Maureen Sheahan, Executive Director of the Labor-Management Council for Economic Renewal, MI.

Statement of the Office of Technology Assessment.

At or after the hearing, Senators Kassebaum, Harkin, and Mikulski joined in co-sponsoring the bill.

S. 1020 was brought up to make-up at the full Committee on Labor and Human Resources on February 23, 1994. At that time, Senator Kennedy offered an amendment in the nature of a substitute, which clarified and simplified the bill. The bill was amended as reported favorably from the committee by a vote of 17 to 0 as follows:

Yeas: Kennedy, Pell, Metzenbaum, Dodd, Simon, Harkin, Mikulski, Bingaman, Wellstone, Wofford, Kassebaum, Jeffords, Thurmond, Durenberger, Coats, Gregg, and Hatch.

One additional amendment was offered during the committee's consideration of S. 1020. This amendment, offered by Senator Kassebaum proposed to amend section 8(a)(2) of the National Labor Relations Act and was defeated by a vote of 10 to 7 as follows:

Nays: Kennedy, Pell, Metzenbaum, Dodd, Simon, Harkin, Mikulski, Bingaman, Wellstone, and Wofford.

Yeas: Kassebaum, Jeffords, Thurmond, Durenberger, Coats, Gregg, and Hatch.

On June 15, 1994, Senator Wofford proposed S. 1020 as a separate title V to the "Improving America's Schools Act of 1994". Given the committee's unanimous support for the bill, it was accepted by the committee on a voice vote and was incorporated as title V into the "Improving America's Schools Act of 1994".

IV. EXPLANATION OF THE BILL AND COMMITTEE VIEWS

In recent years, there has been an increasing realization that small and medium manufacturers in the United States have lost their competitive edge in manufacturing technology. There has been a corresponding acknowledgment of the need for Federal support of industrial modernization. Resources have been directed to that goal primarily through the Technology Reinvestment Project (TRP) of the Department of Defense and the National Institute of Science and Technology (NIST) of the Department of Commerce.

With passage of the National Competitiveness Act[1], the Senate has recognized the need to assist and encourage employers in the manufacturing sector to learn about and adopt those advanced workplace technologies and practices which will build on and expand the skills and experience of production workers. Adoption of the best such strategies by the private sector should result in the creation of new jobs and the retention of existing manufacturing jobs with accompanying improvements in workers' skills, wages, working conditions and job security. However, even with passage and enactment of the National Competitiveness Act, there will still be no Federal Government program in place which specifically authorizes funds for the purpose of building the capacity of workers and worker organizations to address technology issues in workplace modernization.

Technology can impact positively or adversely upon workers' skills and earnings capability. It can deskill workers and disempower them or it can increase workers' skills and be a source of their empowerment. That the introduction and integration of technology in the workplace can result in radically different workplace strategies and impacts has been addressed in the growing literature in the area. For example, in "In the Age of the Smart Machine", the authority presents case studies of two different manufacturing plants—Piney Wood and Cedar Bluff, which illustrate the different strategies vis a vis their workforce that employers can adopt in deploying technology. A manager at the Piney Wood facility described the company's approach to technology as follows:

> Upper management has looked at modernization as a way to eliminate jobs. The reduction of the work force has been a key element in the justification for all our new computer technology. Reducing head count has been the focus of managerial rewards. We have simply looked at bodies rather than price per ton. We never asked the question, "Can I keep this person and get more tons?"[2]

An employee who had worked at both the Piney Wood and Cedar Bluff plants, commented on the radically different approach to technology the separate managers had adopted:

> I can tell you there is a world of difference. In Cedar Bluff, when you have a problem, you think, sit down and have a meeting, then think again. The computer allows people to work on bigger problems—things you couldn't tackle without it. It gives us the capacity to do things and use data that we couldn't otherwise have done. It facilitates seeing new things. What has happened at Cedar Bluff is that we have given people the tools and expected them to use them. This is what makes Cedar Bluff a thought-oriented place, in contrast to Piney Wood, which is environment oriented. There they solve problems by asking, how did we do it last time? Thinking is a last resort.[3]

[1] The Senate passed the National Competitiveness Act (S. 4) on March 16, 1994. See Congressional Record, Vol. 40, No. 29 at S3006.

[2] Zuboff, Shoshana, "In the Age of the Smart Machine," N.Y.: Basic Books, Inc. (1988) at 249.

[3] Zuboff supra at 276.

Technology can lead not only to a deskilling of workers, but to a decline in employment levels. Economists Paul Krugman and Robert Lawrence identify new automation technologies as a key culprit in the decline of manufacturing employment from 34.2 percent of all American employment in 1950 to 17.4 percent in 1990.[4] Our national policy should ensure an increase in the number of American jobs, and raise the job skills, working conditions, and living standards of our people. Workers should be involved in this process.

The Workers Technology Skills Development Act recognizes the importance of including workers in advancing high performance strategies and of ensuring that workers' needs and goals as well as those of their employers are identified and addressed in industrial modernization. The committee has found that frequently the best ideas for identifying "best workplace practices" and the best strategies for implementing such practices in the workplace come from the workers themselves. This conclusion echoes those of the labor-management teams who testified and the committee's July 1993 hearing. Moreover, workers' concerns for skills enhancement, job security, true worker participation, a safe and healthy workplace and high living standards in the workplace of advanced technology are best addressed by workers themselves.

Unfortuntely, the adoption of "high performance" and "best workplace practices" is not the norm in the technologically evolving workplace. According to the July 26, 1993 Report of the Conference on the Future of the American Workplace, while there are no accurate estimates of the number of companies that have taken the high-performance approach, most analysts agree the percentage is relatively small. "Workplace of the Future," A Report of the Conference of the American Workplace, July 26, 1993, U.S. Departments of Commerce and Labor at p. 3. But the need for employers and workers to address technological change in the workplace is ever constant and rapidly growing. As the Department of Labor report found:

> The pace of technological change is accelerating. To keep up, workers must innovate continuously, redesigning their own jobs as well as products, manufacturing processes, and delivery systems.

"Report" supra at p. 2.

The committee was fortunate to have several witnesses from high-performance workplaces testify at the hearing as to the "best practices" they had deployed. Several joint labor-management teams testified regarding their experiences in proposing and adopting advanced workplace practices and technology. For example, at the Corning Plant, in Charleroi, PA, management and labor testified as to their success at achieving record-high productivity, quality, technological advancement, and employment. They did this by combining the introduction of new technology with the adoption of self-directed work teams, worker training in participation, group dynamics, problem-solving, and participation skills. Workers and management shared in the decision-making process and the re-

[4] Krugman, Paul R., & Lawrence, Robert Z. "Trade, Jobs, and Wages", Scientific American, April 1994, at 44–49.

sponsibilities of their common enterprise. At Detroit Diesel Corporation, labor and management worked together on communications, planning, sharing input, and taking business risks. Workers were full participants in designing the technology which allowed the company to develop advanced engine electronics and components to improve the combustion process. The results are impressive. The company's sales increased from $800 million in 1988 to projected sales of over $1.4 billion in 1993. Productivity has improved 30 percent from 1988 to 1992. Employment increased about 9 percent.

Moreover, witnesses such as Charles Richardson, Director of the Technology and Work Program at the University of Lowell in Massachusetts, focused the committee on the crucial issues involved in effective implementation of new technologies which incorporate worker involvement. First, any measure of effectiveness must include not only technologies which improve quality, flexibility and productivity but also improve working conditions, job security, skills development and wages. Successful "effective" technologies should improve workers' lives. Second, workers need to be involved in the "front end" of the technology and as early as possible in the introduction of any technology in the workplace. True worker input means involvement in the design, development and implementation of technologies. Yet, a 1991 survey of senior executives from 63 of the largest manufacturing companies in the metalworking industry found that most companies did not have explicit policies regarding worker participation in either the design process or in modification of technology after installment. Finally, worker involvement should include the ability of the workforce not only to respond to the employers' needs, but to have workers' needs and ideas be an essential part of the modernization process. A 1993 study concluded that it is the accommodation of mutual needs and opportunities between technology designers and technology users that produced system benefits. Indeed, the study suggests that unless the information received during that process is actually acted upon by adapting and altering the technology and work processes involved, user involvement could be counterproductive.[5]

The Workers Technology Skills Development Act is a modest step toward ensuring that workers are included in the development and deployment of new technology in the workplace. S. 1020 would authorize the Department of Labor to make grants to nonprofit organizations, particularly those formed by workers, to research, identify, and develop new and advanced workplace technologies and practices which will promote the development and deployment of technology and the improvement of workers' skills, wages, working conditions and job security. It will provide funds through the Department of Labor, the government agency with primary responsibility for training, to labor unions, and other nonprofit institutions so that those organizations can develop strategies for enhancing workers skills and participation in the development and deployment of technology in a manner consistent with and promotive of higher wages, good working conditions, and greater empowerment

[5] Leonard-Barton, Dorothy & Sinha, Deepak K., "Developer-User Interaction And User Satisfaction in Internal Technology Transfer", Academy of Management Journal, 36 (5), at 1125–39.

for workers. The grants will be used to build competence within these organizations. These organizations will then provide the knowledge and experience gained through those grants to the Department of Labor and the Department of Commerce for the purpose of disseminating these experiences to others. Materials produced through the grants can be made available to State industrial extension programs and manufacturing technology centers as well as to other training programs. They, in turn, can make use of such information to provide technical assistance to further encourage the use of such technologies and practices in the workplace.

The Minority's Additional Views address an issue we considered irrelevant to the legislation before us. Given our understanding, we did not address that issue in the original committee views. Given the Minority's contrary understanding, we do, however, address the issue the Minority raises at this point.

The Minority faults the committee and the Worker Skills Technology Development Act (S. 1020) for "fail[ing] to account for our Federal labor law's prohibitions against worker-management cooperation." But, as we demonstrate below, there is no such prohibition in the Federal labor law.

However, before turning to that task, we note that the Worker Skills Technology Development Act does not even purport to deal with the fundamental structural relationships between management and labor. It does not do so because it creates no occasion for dealing with that subject. As a modest grant program which authorizes the Department of Labor to provide grants to labor unions and other nonprofit organizations to promote worker involvement in the development of a high performance workplace, it neither necessitates nor encourages the employer creation of employee committees that raises any question under the National Labor Relations Act. All this legislation does is authorize funds to non-profit organizations to develop and promote participation which can certainly be spent in a manner consistent with the NLRA. The Department of Labor has reviewed both S. 1020 and S. 669 and concluded that "the type of labor-management cooperation which is envisioned in S. 1020 would not violate the NLRA."

That conclusion is not surprising. The National Labor Relations Act was enacted, in substantial part, to facilitate labor-management cooperation. Senator Wagner, the author of the Act, understood that the primary requirement for cooperation is that "employers and employees deal * * * with one another on an equal footing."[6] The NLRA creates a mechanism—the selection by workers of a bargaining respresentative—through which working men and women can establish the independent organizations which are the first requisite of real cooperation.

Senator Wagner recognized too that "one of the great obstacles to genuine freedom of self-organization"—and thus to genuine labor-management cooperation—are employer established and controlled labor organizations. Id. at 1373. Accordingly, Section 8(a)(2) of the NLRA prohibits employer-dominated labor organizations. Congress' judgment in the Wagner Act and in the Taft-Hartley

[6] 1 NLRB, Legislative History of the National Labor Relations Act of 1935, at 24 (1949).

amendments was that such employer entities do not enhance productivity or empower employees.

Contrary to the Minority's assertions, the National Labor Relations Board's recent *Electromation*[7] decision is entirely faithful to the statutory law. *Electromation,* in the words of Professor Charles Morris, was a "garden variety section 8(a)(2) case" * * * whose "fame relates more to its hype than to its type". Morris, Deja Vu and 8(a)(2)—What's Really Being Killed by Electromation, p. 2, Address Before the Commission on the Future of Worker-Management Relations, Docket No. 158. The Board decision broke no new ground. And that is undoubtedly why the Seventh Circuit Court of Appeals unanimously enforced its decision.

Electromation involved "employee participation" committees unilaterally created by the employer in response to employee agitation over the Company's adverse changes in working conditions. In *Electromation,* the new management of the company decided unilaterally to deny the employees—most of whom earned just $6 an hour—annual wage increases and to make other changes in the employees' conditions of employment. When those employees became restive over these changes, management sought to diffuse the tension by "imposing on the employees an organized Committee mechanism composed of managers and employees instructed to 'represent' fellow employees." 309 NLRB at 998.

The committees dealt with traditional subjects of collective bargaining such as attendance policies as it affected pay and discipline and pay progressions for premium positions. The employer alone established the structure, the rules, the composition and operating procedures of the committees and even determined the subject matters that the committees could consider. The employer alone selected the employees on each committee; the employees did not vote to even ratify the employer's selection. True participation by employees on the committee was further limited because the employer alone had the final say on any committee proposal. And, when the employees sought to be represented by a union to address their concerns, management pitted the management-created "Action Committees" against the union, suspending management's involvement with the committees "due to the Union's campaign" and telling the employees that the "employer could not work with the committees until after the [union] election." Thus, *Electromation* has nothing to do with genuine labor-management cooperation. Indeed, the Board found that:

> the purpose of the Action Committees was, as the record demonstrates, not to enable management and employees to cooperate to improve "quality" or "efficiency," but to create in employees the *impression* that their disagreements with management had been resolved bilaterally.

309 NLRB at 998. (Emphasis added.)

The *Electromation* decision is thus consistent with the purposes and the statutory language of the NLRA. "[T]he Board broke no new ground when it found those 'action committees' to be labor or-

[7] *Electromation, Inc.* 309 NLRB 990 (1992) enforced * * * F.2d * * * (Nos. 92–4129 and 93–1109) (7th Cir. 1994).

ganizations dominated by the employer." "The Developing Labor Law," 3rd Ed., First Supp. 1990–1992 (1993, ABA).

The Minority's Additional Views state that "[t]he NLRA clearly prohibits employee-management cooperation regarding working conditions, including bilateral discussions over how to use new technology in the workplace" and that the committee should have adopted the Teamwork for Employees and Management (TEAM) Act as an amendment to S. 1020 and the Federal labor laws in order to "permit workers and management to meet together to discuss working conditions and quality and productivity issues." But insofar as the TEAM Act seeks to enable employers to "discuss matters of mutual interest" with employees, it is wholly unnecessary. In the companion case to *Electromation, E.J. du Pont Co.*, 311 NLRB 893 (1993), the NLRB took pains to point out the variety of forms of cooperative relationships that are open to employers and employees under the NLRA, both in organized and unorganized workplaces. The NLRA does not prevent employers from delegating to an employee committee or team "governed by majority decision-making" and with "management representatives * * * in the minority * * * the power to decide matters [of employment conditions] for itself, rather than simply make proposals to management." Id. at 895. Nor does the Act prevent employers from discussing issues of working conditions with an individual employee or with a "brainstorming group" or with an employee group convened "for the purpose of sharing information with the employer." Id. at 894.

The TEAM Act, by permitting the unilateral creation and establishment by employers of employee committees is, moreover, directly contrary to the fundamental principle that in bilateral relationships, each party should be free to select its own representatives and to decide for itself what issues (if any) it wishes to make to the other party, and what accommodations (if any) it wishes to reach with the other party. In any other context it would be unthinkable to allow A to select B's representative for purposes of dealing with A. The employment relationship—in which workers are dependent upon their employers for their very livelihood—is the last relationship in which such conflict of interest should be countenanced. Yet that is precisely what the TEAM Act would do.

If the TEAM Act were enacted, employers predictably would create employer-dominated organizations at the first sign of efforts by employees to create an independent representative. They would do so, because employees who, all things being equal, would prefer independent representation, are unlikely to take on both the employer and the employer-controlled employee organization. Thus the predictable effect of the TEAM Act would be to encourage employers who recognize the value of some form of employee representation—and who are therefore willing to accept their employees' choice of a union as their representative under current law—to oppose any such employee action in order to convince the employee to settle for an employer-demonstrated TEAM.

Indeed, the TEAM Act has, not one, but two perverse effects. To take some account of section 8(a)(2)'s policies, that proposal protects the creation and maintenance of employer-dominated employee organizations only so long as the organization does not en-

gage in collective bargaining. As a practical matter, this means that if the employees wrest control of "their" organization from the employer and seek to engage in full collective bargaining, the employer commits an unfair labor practice by agreeing to do so.

To the extent the Minority believes it is desirable for Congress to revisit section 8(a)(2) of the Act, the committee is more than willing to do so in the context of overall labor law reform. In its May 1994 report, the Commission on the Future of Worker-Management Relations chaired by Professor John Dunlop, raised several legal issues and options which would need to be addressed in the context of any changes to section 8(a)(2) of the Act and indicated that it would more fully consider these issues in the second stage of its proceedings. Fact-finding Report, Commission on the Future of Worker-Management Relations at 57 (U.S. Departments of Labor and Commerce 1994). The Commission is expected to make specific recommendations on changes in labor law before the end of the year. Before the committee considers any change to the NLRA, including changes to section 8(a)(2), we ought to have before us the Commission's complete findings and recommendations and have an opportunity to hold hearings to carefully consider any legislative changes to that Act.

V. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1020, the Workers Technology Skill Development Act, as ordered reported by the Committee on Labor and Human Resources on February 23, 1994. CBO estimates that this bill would increase federal spending by $30 million over the next five years, assuming the appropriation of necessary funds. The bill would not affect state and local government spending.

The bill authorizes grants to non-profit organizations. The grants would enable workers and worker organizations to evaluate and implement advanced workplace practices and technologies. In addition, the grants would enable workers and worker organizations to increase participation with employers in the development and implementation of advanced workplace practices and technologies. The bill authorizes the appropriation of such sums as may be necessary for fiscal years 1995 through 1997 for the Department of Labor to provide these grants.

CBO estimates this bill would cost $10 million annually for fiscal years 1995 through 1997. The estimate is based on information about the Occupational Safety and Health Administration's New Directions Competency Building program, the Department of Labor's (DOL) Office of the American Workplace programs, programs within the Department of Commerce that provide information and technical assistance to small manufacturers about advanced workplace technologies, and on committee intent. This estimate assumes

that the program will be operated as a pilot or demonstration as opposed to a permanent ongoing program.

S. 1020 would not affect direct spending and thus would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Cory Oltman who can be reached at 226–2820.

Sincerely,

ROBERT D. REISCHAUER,
Director.

VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be minimal impact on regulatory or paperwork requirements imposed by this bill.

VII. SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2 contains the findings of Congress in enacting the bill. In an increasingly competitive world economy, the United States needs to encourage the private sector to develop and implement advanced workplace technologies and practices which will promote the improvement of workers' skills, wages, job security, and working conditions and encourage worker participation in the development, commercialization, evaluation, selection, application and implementation of such technologies and practices in the workplace.

Section 3 contains the purposes of the bill. They are to improve the ability and expertise of workers and workers' organizations through education, training and related services, to recognize, develop, assess, and improve strategies for successfully integrating workers and their organizations in the process of evaluating, selecting and implementing advanced workplace technologies and practices and to assist workers to develop the expertise necessary to ensure worker participation with employers in the use of such technologies and practices.

Section 4 provides definitions of various terms used in the amendment.

Section 5 provides that certain non-profit organizations may apply for grants from the Secretary of Labor. It contains the procedures for applying for grants, delineates the kinds of activities appropriate under such grants, and specifies the terms applicable to such grants. The federal share of the grant will lessen in each of the years for which the grant is awarded.

Section 6 authorizes the Secretary of Labor, in consultation with the Secretary of Commerce, to assist workers, workers' organizations and employers in adopting and disseminating information about best workplace technologies and practices.

Section 7 authorizes the appropriation of available funds to carry out the Act.

VIII. ADDITIONAL VIEWS

We support the goals of S. 1020, the Workers Technology Skill Development Act. The legislation provides grants to nonprofit entities to promote employee involvement in the selection and implementation of new technology into the workplace.

However, at the July 1, 1993, hearing on S. 1020, several witnesses indicated that the bill had a serious flaw. Regrettably, the bill failed to account for our federal labor law's prohibition against worker-management cooperation.

Originally enacted to eliminate company "sham" unions, Section 8(a)(2) of the National Labor Regulations Act (NLRA) prohibits employers from dominating or interfering in any way with a "labor organization." The NLRA defines such labor organizations broadly to include committees "* * * in which employees participate and which exists for the purpose * * * of dealing with employers concerning * * * conditions of work."

But the National Labor Relations Board (NLRB) has taken this prohibition too far. In its *Electromation* decision, the NLRB invalidated one company's employee-involvement committee which met to discuss attendance and no-smoking policies. In the Board's view, any type of employer-established committee where workers have bilateral discussions with management over working conditions violates federal law.

These are the same types of employee-involvement processes contemplated in S. 1020. According to the committee report, the purpose of the bill is to improve the ability of workers "to improve strategies for successfully integrated workers * * * in the process of * * * selecting and implementing * * * advanced workplace technologies * * * and to assist workers to develop the expertise necessary to ensure workers participation with employers in the use of such technologies and practices." See Majority Report, ante. The NLRB clearly prohibits employee-management cooperation regarding working conditions, including bilateral discussions over how to use new technology in the workplace.

Two witnesses at the Senate hearing applauded S. 1020's goals but testified that the advanced workplace practices contemplated by the bill likely would violate federal labor law. Mr. Clifford Ehrlich, vice president for human resources at Marriott Corporation, testifying for the Labor Policy Association, stated that in his opinion and in the opinion of "a number of labor lawyers who have examined the bill, S 1020's new forms of work organization" would clearly fall within the NLRA's prohibition against employer-dominated labor organizations. "Making the Future Work: Technology, Workers and the Workplace," S. Hrg. 103–140, July 1, 1993, at p.92–93.

In addition, Mary Harrington, vice president for human resources at Kodak, testifying on behalf of the National Association

of Manufacturers, stated that the Labor Committee "may very well wish to proceed with S. 1020 * * *, [but] those resources will be wasted if they are spent on activities that are later determined to be illegal and are discontinued." S. Hrg. 103–140, at 88.

Mr. Ehrlich testified that "a key element" was missing from S. 1020. "Unfortunately, the legislation does not confront the number one problem facing the future of employee involvement in the United States * * * [t]he need to reverse the recent actions of the NLRB that have called into question the legality of employee involvement." S. Hrg. 103–140, at 92.

Both Mr. Ehrlich and Ms. Harrington stated that the committee should not only encourage employee involvement but should remove the roadblocks as well. To that end, they endorsed the Teamwork for Employees And Management (TEAM) Act, S. 669, which amends our federal labor laws to permit workers and management to meet together to discuss working conditions and quality and productivity issues.

Accordingly, during the Labor Committee markup, Senator Kassebaum offered the TEAM Act as an amendment to S. 1020. Regrettably, the committee rejected the Kassebaum amendment on a 10–to–7 vote.

In these Additional Views, while we express support for S. 1020, we also affirm out concern that the bill may facilitate illegal forms of employee involvement. Moreover, we reiterate our support for the TEAM Act as a method to remedy S. 1020's potential defect.

NANCY LANDON KASSEBAUM.
DAN COATS.
STROM THURMOND.
JAMES JEFFORDS.
DAVE DURENBERGER.
ORRIN HATCH.
JUDD GREGG.

○